

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

**ZACK ELLIS, GERONIMO PEREZ,
ARTURO SALINAS, JARROD M. DANIEL,
and KERRY TAWATER, individuals,**

Plaintiffs,

vs.

**TRI-STATE OIL FIELD SERVICES, Inc.,
a Texas Corporation, RICARDO “RICKY”
CANTU, an individual, RICKY’S
TOWING OF AMARILLO, LLC,
a Texas limited liability company, KATRINA
KINCAID, an individual, and CANTU
TOWING, LLC, a Texas limited liability
company,**

Defendants.

CASE NO. 2:15-CV-00058-J

JURY TRIAL DEMANDED

**SUPPLEMENT TO MOTION TO COMPEL BY WAY OF STATUS REPORT TO
COURT’S ORDER ON DISCOVERY (DKT. 31)**

COME NOW, Zack Ellis, Geronimo Perez, Arturo Salinas, Jarrod M. Daniel and Kerry Tawater, Plaintiffs, by and through their attorneys Philip R. Russ and Jerry D. McLaughlin, and file this their Supplement to Motion to Compel by way of Status Report Pursuant to the Court’s Order (Dkt. #31), and would show the Court the following:

**I.
DOCUMENTS PRODUCED**

1.01 On Friday, July 24, 2015, the defendants produced two (2) bankers boxes of Tri-State documents including some documents from Ricky’s Towing and Cantu Towing that had not been previously produced, they include:

- a) Time worked turned in by employees of Tri-State;
- b) Defendants unilateral adjustments downward of calculations of pay to plaintiffs and other Tri-State employees, see Exhibit “A”;
- c) Inquiries from DOL Wage & Hour division regarding pay practices and Katrina Kincaid’s responses thereto, see Katrina’s Response Exhibit “B”;
- d) Pay stubs for various Tri-State employees involving payments to Rick Cantu and Katrina Kincaid reflecting no deductions for withholding tax, F.I.C.A, etc., see Exhibit “C”;
- e) Documents reflecting the interchange and use of employees by Tri-State, Cantu Towing and Ricky’s towing interchangeably and payment of employees by differing entities with no explanation, see Exhibit “D”;
- f) Documentation reflecting deductions from employees’ hourly pay for damage to equipment, etc., see Exhibit “D”;
- g) Records reflecting DOL investigations of Wage & Hour violations that were apparently thwarted by the defendants through a refusal to co-operate wherein DOL gave up on its investigation, see Exhibit “F”;
- h) Documents reflecting differing pay rates (i) regular rate and (ii) the lower rate denominated “shop time” for same employee in same pay period resulting in deductions in pay with no explanation or justification therefore, see Exhibit “A”;
- i) Texas workforce wage claims and TWC Texas Pay Day Decision(s);
- j) Certain safety policies at Tri-State;
- k) List of all current employees;
- l) Cantu Towing DOL Wage & Hour Investigation;
- m) Cantu Towing pay roll summary, Jan. 1 through October 12, 2012;
- n) Katrina Kincaid response to DOL wage & Hour on behalf of Cantu Towing and Ricky’s Towing, plus IRS form Schedule C, 2011, Profit or Loss from Business re Cantu Towing & Ricky’s Towing, Exhibit “B” and Exhibit “G”;
- o) Identity of and description of Tow Trucks provided to DOL (including pictures);

- p) Amarillo City Vehicle Storage, Tow Reports as of 4/16/2013;
- q) Cantu Towing LLC and Ricky's Towing LLC Tow Reports as of 4/18/2013;
- r) Ricky's Towing & Cantu Towing pay summaries by employee with no supporting documents to support calculations – reflecting regular deductions from the non-exempt workers pay with no support to justify the unlawful deductions;
- s) DOL Summary of unpaid wages;
- t) Ricky's Towing of Amarillo, LLC, Payroll summary; and
- u) Ricky's Towing employees and contractors names & addresses (no distinction of how determined employee or contractor or how determine which; List of Drivers (commission).

**DEFICIENCIES IN RESPONSE TO PRODUCTION
AND INTERROGATORIES**

1.02 The defendants have not complied with discovery and as such another hearing must be set on the plaintiffs Motion to Compel to rectify the following deficiencies, to wit:

- aa) Although the defendants tendered Amended Answers to Interrogatories in behalf of all the defendants on July 15, 2015, at the hearing on the Motion to Compel, none of the responses to interrogatories have yet to be verified. As such they constitute no answers at all; Verified responses must be compelled;
- bb) Deficiencies to the responses to plaintiff request for production include the lack of any underlying documents that support the payroll summaries, including:
 - i) documents reflecting time worked by the drivers, etc., or the paid time captured by the employer, and the pay stubs for each employee or contractor or non-exempt hourly employee of Ricky's Towing and Cantu Towing for the time period in question;
- cc) Copies of all the Texas Employment Commission form entitled "Employees Quarterly Report" during the time periods in questions reflecting the employees of each entity for each quarter for the time period in question;
- dd) The personnel files of each employee at all three entities during the time periods in question;
- ee) Similar employee documents to those recently produced on Tri-State as it relates to Ricky's Towing and Cantu Towing regarding and documenting pay

practices, the calculation of paid time and the amount due the employees as well as deductions from their pay for the time period in question;

1.03 The defendants Ricky's Towing of Amarillo, LLC, Katrina Kincaid and Cantu Towing in other First Amended Responses to Plaintiffs First Request for Production gave the identical response to Request to Produce No.'s 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, and 50, see Exhibit "E" as follows:

"Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding the defendant Tri-State. There are no documents responsive to this request."

The foregoing responses are not made in good faith and are not credible. The defendants failed and refused to produce even the most rudimentary form of documentation on the employees of Ricky's Towing of Amarillo, LLC, and Cantu Towing, LLC. See Exhibit "D" reflecting an employee, Brent Diehl, being paid the week ending 1/15/15 partially from Tri-State and partially from Ricky's Towing. This document confirms the intra-company use of the same employee(s). See Exhibit "B" which is a letter on Cantu Towing, signed by Katrina Kincaid, dated April 12, 2013, providing DOL information on Cantu Towing and Ricky's Towing concerning gross receipts. The foregoing document belies the defendants assertion and claim that Katrina Kincaid had nothing to do with these entities and no knowledge of what was transpiring. See Exhibit "H" documenting a deduction in weekly pay for plaintiff Kerry Tawater of \$290.00 for claimed damage to garage door. The foregoing is an unpermissible reduction of pay for no justifiable reason by the employer. Accordingly, an additional hearing on the motion to compel is necessary to identify and compel production of personnel files, payroll records, time records, calculation of hourly pay (including commissions) deductions from pay, hours worked, documentation of

differing rates for the same employee on the same pay period for Cantu Towing and Ricky's Towing employees who were shared among towing companies as well as Tri-State. Defendants repeated statement that there are no records is not credible.

1.04 It is necessary to have a hearing on the foregoing issues and on the issue of reasonable and necessary attorneys fees and costs in connection with plaintiffs' Motion to Compel.

WHEREFORE premises considered, plaintiffs submit this Status Report by way of Supplement to their Motion to Compel and pray the Court to Order additional production of documents, order sworn answers to interrogatories, assess and award plaintiffs attorneys fees and costs and such other relief as the Court deems proper.

Respectfully submitted,

LAW OFFICES OF JERRY D. McLAUGHLIN
Jerry D. McLaughlin, SBN 13743300
1200 S. Western, Suite 1000
Amarillo, Texas 79109
806-371-9110 - Telephone
806-373-9029 - Facsimile

- and -

LAW OFFICES OF PHILIP R. RUSS
2700 S. Western, Suite 1200
Amarillo, Texas 79109
(806) 358-9293 - Telephone
(806) 358-9296 - Facsimile

By: /s/ Philip R. Russ
Philip R. Russ Bar No. 17406000

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of July, 2015, I electronically filed the foregoing document with the Clerk of the Court for the Northern District of Texas, by using the CM/ECF system which will send a notice of electronic filing to the following CM/ECF participant:

Darrell R. Carey
Law Office of Darrell R. Carey
300 15th Street
Canyon, Texas 79015
Tel. 806-655-4529 / Fax 806-355-7250
lawofficesofdarrellcarey@gmail.com

By: /s/ Philip R. Russ
Philip R. Russ

EXHIBIT “A”

NAME		PERIOD		11/12/2014-11/18/2014	
Randy Inuegas					
DATE	SHOP TIME	DESCRIPTION	BILLABLE	DESCRIPTION	
11/6/2014	4.5	drove to boys ranch picked up 8 inch pipe, helped with trailers in shop-grinded on trailers and got ready to paint	✓	was 2	2
11/9/2014	2	welded on trailer & grinded, greased gin truck & oiled lines went to summit for air filters on gin truck			2
11/10/2014	6	Welded & cut metal for trailers in the morning went to atlas for pipe job.			
11/12/2014	4.5	Worked on trailer and helped around shop.		4	
11/13/2014	4.5	got equip. ready for rig move finished up trailer.		2	
11/14/2014			12.5	started rig move, ran loader and gin truck and swamp.	
11/15/2014			13	rig move, ran loader, gin truck, swamp	
11/16/2014			13.5	rig move, gin truck, loader, swamp	
11/17/2014			12.5	rig move, gin truck, loader, swamp	
TOTAL	39	SHOP HOURS @ 10.00	25.5	BILLABLE HOURS @ 15	

added Randys payroll from 11/5/2014-11/11/2014, due to Randy turning in his tickets late for last pay period.

(late)

11/6/14 4 hours shop
11/16/14 3 hours (swamp date)

11/9/14 9 hours shop

11/10/14 3 hours shop
11/10/14 7 1/2 hours Atlas

21 hours shop 7 1/2 Billable

shop time 10 1/2 hrs

Billable 25 1/2

31.5 shop Billable

33 hours
\$100.00

EXHIBIT “B”

Cantu Towing LLC
305 S. Williams
Amarillo, Texas 79102
(806)372-8422

April 12, 2013

Information you requested for Cantu Towing.

Gross Receipts for 2010 are not available for Cantu Towing.
Gross Receipts for 2011 on attached Schedule C are \$135,147
Gross Receipts for 2012 on Schedule C are \$589,003

Three different types of tow trucks used by Cantu Towing:
2011 Dodge 5500 / tow truck with a wheel lift
2006 International / tow truck that is a roll back (flatbed)
1998 Mack / Semi-wrecker

Explanation for employee in Canyon:

Tommy Bates is an employee of Ricky's Towing and drives a Ricky's Towing truck. He is temporarily living in a mobile trailer and has permission to stay on property until he is able to find a space for rent that is affordable for his trailer.
Tommy Bates (806)336-7750.

Information you requested on Ricky's Towing.

Gross Receipts for 2010 on attached Schedule C are \$1,829,501
Gross Receipts for 2011 on attached Schedule C are \$1,750,763
Gross Receipts for 2012 on Schedule C are \$1,784,767 (Not Final)

We are still in the process of getting you a list of current and past employees with all of their information for Ricky's Towing.

Katrina Kincaid

Tri State Oilfield Services
3710 Tradewind Street
Amarillo, Texas 79118
(806)373-1778

April 14, 2015

Department of Labor
Kathryn Apodaca
(512)463-2330 phone
(512)463-3976 fax

Reference: Casey Van Beekum

I have attached a copy Mr. Van Beekum's last two paychecks. I do not have any time records for Mr. Van Beekum during November 28th to December 23rd. Mr. Cantu does not recall him working during that time frame. Mr. Cantu stated he thought Mr. Van Beekum had entered the hospital at that time for kidney failure and he was unable to return to work. He stated his father or father in law had picked up Casey's last paycheck.

Thank you,


Katrina Kincaid

EXHIBIT “C”

TRI STATE OIL FIELD SERVICE, INC.
Geronimo Perez

1/28/2015

3571

407.00

PAYMENT
RECORD

First Financial Bank

407.00

WHITCO CHECKS - AMARILLO

TRI STATE OIL FIELD SERVICE, INC.
Geronimo Perez

1/7/2015

3396

976.00

PAYMENT
RECORD

First Capital Bank

976.00

WHITCO CHECKS - AMARILLO

NAME		Geronimo Perez		PERIOD	12/17/2014-12/23/2014
DATE	SHOP TIME	DESCRIPTION	BILLABLE	DESCRIPTION2	
12/17/2014	4	Fixed light, got trailer trucks ready for inspection.			
12/18/2014					
12/19/2014					
12/20/2014					
12/20/2014			14	Bunk house, fuel tank, misc...	
12/20/2014	4	Shop		Cancelled	
12/21/2014	6	Shop		never got misty pump to work, hooked up trailer never got pump to work.	
12/22/2014					
12/23/2014			6	Washed out Frac tanks.	
TOTAL	4	SHOP HOURS @ _____	20	BILLABLE HOURS @ _____	
Misc. &/OR REIMBURSEMENTS: 14 @ 10. ⁰⁰ 20 @ 22. ⁰⁰					

140.00
 440.00
580.00

TRI STATE OIL FIELD SERVICE, INC.

3552

PAYMENT
RECORD

Brent Diehl

1/26/15

\$105.75

contract labor

WHITCO CHECKS - AMARILLO

Ricky's Towing

Cantu Towing

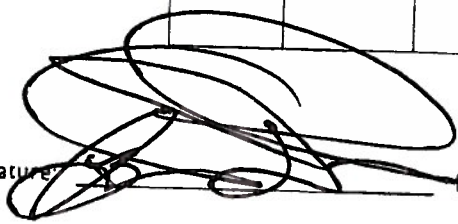
Amarillo City Vehicle

WEEKLY TIME RECORD

Name: Brent Dixon
 Address: 41276 miles
 Phone #: 731 9807

Pay Period: _____ to _____

Day	In	Out	In	Out	Regular Hours	Overtime Hours	Sick	Vaca- tion	Total
Thursday									
Friday									
Saturday									
Sunday									
Monday									
Tuesday									
Wednesday	2:30 AM	9 PM			19.5				
Total									
Rate									
Total									

Employee signature: 

Date:

1-15-15

Manager signature: _____

Date: _____

mm15

Ricky's Towing of Amarillo, LLC*Semi accident*3710 Tradewind St.
Amarillo, TX 79118

108098

806-371-7588

P.O. _____

MEMBER # _____

CUSTOMER
NAME _____

ADDRESS _____

CITY _____

T.D.L.R. DRIVER 33354	
T.D.L.R. 005533556C	
TRUCK # 600	___ CASH
TAG # T2697C	___ CHECK
___ CHARGE	

DATE 1/14/15	DRIVER Brent	DISPATCH TIME 0400	23 TIME 0400	51 TIME 0500	10/8 TIME 0800
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YEAR MODEL 2010	MAKE Mercury	MODEL Tractor	COLOR Blue	CALLED BY: _____	MILEAGE: _____
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TAG: 3DN7536	STATE: CA	VIN #: 3NKA49X7AF261839
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PICKUP LOCATION: MMIS WB140 Jack knife
DROP OFF LOCATION: 3708 Tradewind St.

STORAGE COMPLAINTS TEXAS DEPARTMENT OF LICENSING AND REGULATIONS PO BOX 12157 AUSTIN, TX 79711 (512) 463-6599 (800) 803-9202 Complaints must be directed to Texas Department of Licensing and Regulation P.O. Box 12157 Austin, TX 79711-2157 Email: towing@license.state.tx.us Website: http://www.license.state.tx.us/towing/towing.htm	SERVICE: Callout + \$45000
	4 HRS@SCENE@ 150 PER HR. \$18000
NOTICE PURSUANT TO SECTION 70.001, TEXAS PROPERTY CODE: I am the person or agent acting on behalf of the person who is obligated to pay for the towing and storage of this vehicle. I understand that this vehicle is subject to repossession in accordance with Section 9.503, Texas Business and Commerce Code, if a written order for payment for tow and storage on this vehicle is stopped, dishonored because of insufficient funds, no funds, or because the drawer or maker of the order has no account or the account on which it drawn has been closed.	INROUTE MILES@ _____ PER MILE
	TOWED MILES@ _____ PER MILE
X _____ DATE RELEASED: _____	PORT TO PORT 114mi @ 3/mi \$34200
	@201.
TAX	
TOTAL	\$859200

TRI STATE OIL FIELD SERVICE, INC.
Brent Diehl

1/21/2015

3542

1,072.50

PAYMENT
RECORD

First Capital Bank

1,072.50

WHITCO CHECKS - AMARILLO

TRI STATE OIL FIELD SERVICE, INC.
Cody Carlisle-Bush

2/4/2015

3630

120.50

PAYMENT
RECORD

Handwritten notes: 2/4/2015, 3630, 120.50, and a signature.

First Capital Bank

WHITCO CHECKS - AMARILLO

120.50

Ricky's Towing

Cantu Towing

Amarillo City Vehicle

WEEKLY TIME RECORD

Name:

Address:

Phone #:

Cody Bush
 4201 Farmers Ave
 Amarillo, TX

Pay Period: 1-22 to 1-28

Day	In	Out	In	Out	Regular Hours	Overtime Hours	Sick	Vaca-tion	Total
Thursday									
Friday									
Saturday									
Sunday									
Monday									
1-26 Tuesday	4	Load Trans Load			@ 12 ⁰⁰	48 ⁰⁰			
Wednesday		Sam 6pm			10				
Total					10				
Rate					7.25				
Total					\$72.50				\$48.00

Training

License Balance
 @ 275.00

Farmers Rent
 \$50.00

Employee signature:

Date: 2-2-15

Manager signature:

Date:

\$120.50

Name: <u>Cody Carlisle-Bush</u>			Week Ending			Weekly Total		
Job Name or Number	Billable	Non Billable	Job Name or Number	Billable	Non Billable	Job Name or Number	Billable	Non Billable
Yard worked in Shop billed Transmission on Truck. Put Starter on 102. Went to meet driver in Memphis with parts		10						
Date: <u>1-21</u> Wednesday		10	Date: Friday			Date: Sunday		
Job Name or Number	Billable	Non Billable	Job Name or Number	Billable	Non Billable	Job Name or Number	Billable	Non Billable
						Trans loaded Truck. Worked cleaning & went to get finder applied for Td/R License		
Date: Thursday			Date: Saturday			Date: <u>1-26</u> Monday		

			Weekly Time				Weekly Time Record	
			Earnings		Amount			
			Billable Hours					
			Billable OT					
			Non Billable					
Job Name or Number			Billable	Non Billable			Cody Carlisle-Bush Employee Name	
Went and took drug test and trained on Tow Truck					10.00	120.00	Employee Signature	
			Non Billable					
			OT Hours					
			PTO Hours					
Date: <u>1-27</u> Tuesday							Manager Signature	
							Week Ending	

TRI STATE OIL FIELD SERVICE, INC.
R.J. Ware

2765

11/5/2014

3,092.00

PAYMENT
RECORD

First Capital Bank

3,092.00

WHITCO CHECKS - AMARILLO

PJ Ward 10/22-10/28

10/22/14 Billable:

rig move - 15' 12

10/23/14

rig move - 15

10/24/14 rig move - 15

10/25/14

rig move - 15

10/26/14

rig move - 15

10/27/14

rig move - 15

10/28/14 Sales/IPS

16 hrs

28 hrs OT

Billable: 106 1/2 hrs

from previous week.

@ \$1,120⁰⁰

- 800.

40K²⁷

Draw

over time 46 x 42.00

\$3,892
- 800.00

TRI STATE OIL FIELD SERVICE, INC.
Nathan Williams

2766

11/5/2014

3,430.00

PAYMENT
RECORD

First Capital Bank

3,430.00

WHITCO CHECKS - AMARILLO

Nathan Williams 10/22/14-10/28/14

Shoptime: 10/22/14

Billable:

Crane assist, tear
down rig - 15 hrs

10/23/14 muck rig, tear down
rig - 15 hrs

10/24/14 crane operator, tear
down rig - 15 hrs

10/25/14 crane operator, build
rig - 15 hrs

10/26/14 crane operator, build
rig - 15 hrs

10/27/14 crane operator, build
rig - 15 hrs

10/28/14 crane operator, ma
chine back, assist
Art - 15 hrs

Billable - 105 hrs

11/120
2,310
2,430

@ 40.00/hr

overtime @ 42.00/hr

TRI STATE OIL FIELD SERVICE, INC.
Thomas Lawson

2768

11/5/2014

790.00

PAYMENT
RECORD

First Capital Bank

790.00

WHITCO CHECKS - AMARILLO



TRI-STATE OILFIELD SERVICES, INC.

3710 Tradewind • Amarillo, TX 79118

(806) 373-1778 fax (806) 371-7876

WEEKLY TIME CARD

Name:

Address:

Phone #:

Day	In	Out	Lunch	In	Out	Regular Hours	Overtime Hours	Sick	Vaca- tion	Total
Thursday 10-23-14	9:00am	2:00pm				5 hrs				
Friday 10-24-14	8:30am	10:30am				2 hrs				
Saturday										
Sunday 10-26-14	8:30am	7:00pm				10.5 hrs				
Monday 10-27-14	8:30am	8:30pm				12 hrs				
Tuesday 10-28-14	9:00am	2:00pm				5 hrs				
Wednesday 10-29-14	9:00am	2:00pm				5 hrs				
Total						39.5				
Rate						\$20.00				
Total						\$790.00				

Thomas Lawson

Employee signature:

Date:

Manager signature:

Date:

TRI STATE OIL FIELD SERVICE, INC.
Andy Monahan

11/5/2014

2769

2,500.00

PAYMENT
RECORD

First Capital Bank

2,500.00

WHITCO CHECKS - AMARILLO



TRI-STATE OILFIELD SERVICES, INC.

3710 Tradewind • Amarillo, TX 79118

Name: Address:

(806) 373-1778 fax (806) 371-7876

WEEKLY TIME CARD

Name: *ANDY MORASHAW*Address: *CITY VIEW*Phone #: *806 - 584 - 0921*

\$2500.⁰⁸

Day	In	Out	Lunch	In	Out	Regular Hours	Overtime Hours	Sick	Vacation	Total
Thursday	7:00	9:00								
Friday	7:00	9:00								
Saturday	7:00	9:00								
Sunday	7:00	9:00								
Monday	7:00	9:00								
Tuesday	7:00	9:00	<i>Am</i>							
Wednesday										
<i>LATSHAW #17</i>						Total				
<i>TRUCK PUSHER</i>						Rate				
						Total				

Employee signature:

Date:

Manager signature:

Date:

TRI STATE OIL FIELD SERVICE, INC.
Wesley Prestidge

2770

11/5/2014

1,387.50

PAYMENT
RECORD

First Capital Bank

1,387.50

WHITCO CHECKS - AMARILLO

Wesley Prestridge 10/22-10/28

Shoptime 10/22/14 Billable:

Moving MISC. tank
broken - 15 1/2

10/23/14 rigger - 15 hrs

10/24/14 Rigger - moved what
15 was ready - 15 hrs

10/25/14 loaded demick, run
Skid loader - 15 hrs

10/26/14 Rigger, Swamped and
Set outline, set demick
15 hrs

10/27/14 Setup rest of MISC.
rigged up crawler
15 crane - 15 hrs

10/28/14 loaded tie down
tandem counter
weights in Andrews.
15 hrs

Reimbursement for gas.
80 miles 10/9/14

Billable pay - 107 1/2

@

1387.50 - 92.5
x 15

EXHIBIT “D”



TRI-STATE OILFIELD SERVICES, INC.

3710 Tradewind • Amarillo, TX 79118

(806) 373-1778 fax (806) 371-7576

Weekly Time Card

Name: Brent Diehl

Address: 4127 Gables

Phone #: 731-9807

Day	In	Out	Lunch	In	Out	Regular Hours	Overtime Hours	Sick	Vacation	Total
8 Thursday	9:30	7:30				10				
9 Friday	8	7 PM				11				
10 Saturday	8	7 PM				11				
11 Sunday	off	off								
12 Monday	10	7 PM				9				
13 Tuesday	8 AM	4:30 PM				10.5	2.5			
7 Wednesday	9:00 AM	8 PM				19	7.5			
Total						71.5	27.5			
Rate						15.00				
Total										

Victoria
add this

798.25

380.

1178.25

71.5 @ 15.00
\$1,072.50

Truck Wreck

Employee signature:

Date:

1-15-15

105.75

Manager signature:

Date:

Can you look
@ this.

Brent thought
he was suppose
to make \$20.00
an hour for hours
on Ricky's Towing

Tri-state @ 15.00 \$ 772.50
Ricky's Tow @ 20.00 \$ 380.00
Difference @ 6.00 \$ 1,152.50
\$ 80

EXHIBIT “E”

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

**ZACH ELLIS, GERONIMO PEREZ,
ARTURO SALINAS, JARROD M.
DANIEL, and KERRY TAWATER,
Individuals**

Plaintiffs

vs.

CASE NO. 2:15-CV-00058-J

**TRI-STATE OIL FIELD SERVICES,
Inc., a Texas Corporation, RICARDO
"RICKY" CANTU, an individual,
RICKY'S TOWING OF AMARILLO,
LLC, a Texas limited liability company,
KATRINA KINCAID, an individual, and
CANTU TOWING, LLC, a Texas limited
liability company,**

Defendants

**DEFENDANTS RICKY'S TOWING OF AMARILLO, LLC, KATRINA KINCAID AND
CANTU TOWING, LLC, FIRST AMENDED ANSWERS TO
PLAINTIFFS FIRST SET OF INTERROGATORIES**

To: Plaintiffs, Zach Ellis, Geronimo Perez, Arturo Salinas, Jarrod M. Daniel, Kerry Tawater, through their attorneys of record, Phillip R. Russ, 2700 S. Western, Suite 1200, Amarillo, Texas, 79109 and Jerry D. McLaughlin, 1200 S. Western, Suite 1000, Amarillo, Texas, 79109.

Defendants, Ricky's Towing of Amarillo, LLC, Katrina Kincaid and Cantu Towing, LLC., serves these answers to Plaintiffs interrogatories.

Respectfully Submitted

/s/ Darrell R. Carey
Darrell R. Carey
Attorney for Ricardo "Ricky" Cantu
Law Office of Darrell R. Carey
300 15th Street
Canyon, TX 79015

Phone: (806) 655-4529

Fax: (806) 655-7250

Email: lawofficeofdarrellrcarey@gmail.com

CERTIFICATE OF SERVICE

I certify that a true and exact copy of the Defendant First Amended Answers to Plaintiffs First Set of Interrogatories was served on Jerry McLaughlin and Philip R. Russ on the 15th day of July, 2015.

Law Offices of Jerry D. McLaughlin
Jerry D. McLaughlin, SBN 13743300
1200 S. Western, Suite 1000
Amarillo, TX 79109
Phone: (806) 371-9110
Fax: (806) 373-9029

And

Law Offices of Philip R. Russ
2700 S. Western, Suite 1200
Amarillo, TX 79109
Phone: (806) 358-9293
Fax: (806) 358-9296

/s/ Darrell R. Carey
Darrell R. Carey

ANSWERS TO INTERROGATORIES

INTERROGATORY 1: Identify as to name and address or physical location of all facilities where functions are performed similar to the job duties of managers and assistant managers and non-exempt hourly workers at the Amarillo, Hereford, and all work locations in the Texas panhandle and at the defendants Texas facilities which constitute the other facilities of the defendants.

ANSWER: Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State facilities or functions.

INTERROGATORY 2: As to the facilities at issue (described in Interrogatory No. 1) which have operated during the relevant time period, and with respect to each, state the following:

- a. number of FLSA non-exempt workers employed in each facility.
- b. number of FLSA claimed exempt managers and assistant managers in the facilities.
- c. what entity, if any, acts as the collective bargaining representative, if any, for the facilities and the length of time the employees have been represented by a collective bargaining representative;
- d. describe the method(s) of pay for non-exempt workers used during the relevant time period; and
- e. describe the method(s) of pay for managers, assistant managers claimed exempt (and non-exempt hourly workers) by defendants during the relevant time period;

ANSWER: None. Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State employees.

INTERROGATORY 3: For each Fair Labor Standards Act suit filed against Defendants by or on behalf of managers, assistant managers and non-exempt workers at facilities during the past ten years state the following:

- a. Style of the case;
- b. Date filed;
- c. A brief statement of the allegations (including the violation(s) complained of, the facility(s) and division(s) in which the violation(s) allegedly occurred, and the number of workers participating in the suit or on whose behalf the suit was filed); and
- d. Disposition of current status if still in litigation.

ANSWER: There have been no other Fair Labor Standards Acts law suits filed against the Defendants.

INTERROGATORY 4: For each facility identified in answer to question number one, state whether during the relevant time period, Defendants:

- a. Kept track of time mechanics, truck drivers, laborers, non-exempt hourly workers spent handling job assignments given them by the defendants.
- b. Kept track of time mechanics, truck drivers, laborers, and non-exempt hourly workers spent participating in training.
- c. Kept track of time mechanics, truck drivers, laborers, and non-exempt hourly workers spent working through their one (1) hour lunch break.
- d. Kept track of time mechanics, truck drivers, laborers, and non-exempt hourly workers spent working on weekends.
- e. Kept track of time mechanics, truck drivers, laborers, and non-exempt hourly workers spent working at the various job sites assigned to the workers by the defendants and work locations in the Texas panhandle in addition to the Amarillo and Hereford locations.
- f. Kept track of time mechanics, truck drivers, laborers, and non-exempt hourly workers spent completing forms or filling out time sheets.
- g. Any alterations or deductions from paid time made by any of the defendants and identify or describe the reason for any alterations to or reductions in paid time during any work period.

ANSWER: None. Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State employees.

INTERROGATORY 5: State whether or not in the last five years there have been any changes in the method of pay or in the method of calculation of time at work for any mechanics, truck drivers, laborers, or non-exempt hourly workers at facilities at issue and describe the changes instituted, the dates which those changes went into effect, and the reasons for those changes. If there were such changes, please state the name, position, and address of the person with the most complete knowledge as to the changes and why such changes were made by Defendants.

ANSWER: None. Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State facilities.

INTERROGATORY 6: Identify and state the position and authority of each person who has assisted you in the preparation of your answers to Plaintiffs' First Set of Interrogatories.

ANSWER: Katrina Kincaid

INTERROGATORY 7: Identify all persons known to you who have knowledge of facts relevant to this action. A person has knowledge of relevant facts when he or she has or may have knowledge of any discoverable matter. The information need not be admissible and personal knowledge is not required.

ANSWER: Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State facts relevant to this action.

INTERROGATORY 8: If you decline to produce any document requested in Plaintiffs' First Set of Requests for Production on the grounds that such documents has been lost, destroyed, is not within your possession, custody, or control or is privileged from discovery, identify the nature of each such documents, including wherever applicable the title, date, author, and all recipients of the document, and specify the present location of the document and the names and addresses of the person or persons having possession, custody or control thereof, together with a complete and specific statement of the reasons such document has been withheld using the attached form entitled "Lost or Privileged Document" or a facsimile of it.

ANSWER: Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State documents

INTERROGATORY 9: Identify all claims or investigations under the Fair Labor Standards Act which have ever been made against Defendants and each of them either by an individual or by any agency of government. Identify means to state the nature of the claim or investigation, by whom it was made, the facility, the division and job titles involved, the dates of the claim or investigation, and the outcome or resolution of the claim or investigation.

ANSWER: Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State FLSA claims.

INTERROGATORY 10: Identify all persons who held supervisory positions in the facilities at issue during the relevant period and all supervisory employees responsible for keeping time. For each such person provide his or her facility, division, shift, current or last known address and telephone number, and job title and the period during which he or she held that position.

ANSWER: Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State employees.

INTERROGATORY NO. 11: Identify all non-supervisory persons with time keeping responsibility at the facilities and/or job sites or work locations at issue during the relevant period. For each such person provide his or her facility, division, shift, and job title, current or last known address and telephone number and job title and the period during which he or she held that position.

ANSWER: Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State employees.

INTERROGATORY NO. 12: Identify all persons who, during the relevant period, were employed as mechanics, truck drivers, laborers, and in FLSA non-exempt positions in the facilities at issue.

ANSWER: Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State employees.

INTERROGATORY NO. 13: Describe the method by which defendants calculated the daily hours of work for each mechanics, truck drivers, laborers, and FLSA non-exempt position in the facilities and job sites or work locations at issue and indicate whether time spent on the following activities was included in the calculation of work time:

- a. For the time the mechanics, truck drivers, laborers, and/or non-exempt hourly workers spent driving trucks, working wrecks, moving rigs, maintaining trucks or equipment, repairing trucks or equipment, fixing flats, repairing breaks and the like.
- b. The time mechanics, truck drivers, laborers, and/or non-exempt hourly workers spent waiting for repairs to complete their jobs, whether for repairs, wrecks, equipment breakdowns, delays by third parties or the like.
- c. The time mechanics, truck drivers, laborers, and/or non-exempt hourly workers spent performing duties at rated of pay described as "shop time".
- d. The time managers, assistant managers and/or non-exempt hourly workers spent working before and after the shift.

ANSWER: Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State employees.

INTERROGATORY NO. 14: For each of the facilities, job sites or work locations at issue in this case, please identify each and every alteration in the physical structure of the relevant facility operated by defendants which has been instituted since February 17, 2012, which you contend has affected the amount of time spent by workers in any of the activities at issue in this case (i.e. mechanics, truck drivers, laborers and/or non-exempt hourly workers spent driving trucks, moving oil rigs, working wrecks, repairing trucks and/or related equipment and generally performing

assigned tasks at the job sites in which they are employed, driving trucks, repairing/maintaining trucks and equipment, working wrecks, among other things). Identify the alteration means state an exact description of the alteration, the date the alteration was made, the activity at issue affected by the alteration, and the job titles of the workers whose time was affected by the alteration.

ANSWER: Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State facilities.

INTERROGATORY NO. 15: For each of the facilities, job sites or work locations at issue in this case, please identify each and every alterations in the policies and procedures at the plant which has been instituted since February 17, 2012, which you contend has affected the amount of time spent by mechanics, truck drivers, laborers and non-exempt workers in any of the activities at issue in this case (i.e. driving trucks, repairing/maintaining trucks and equipment, moving drilling rigs, working wrecks, among other things, generally performing assigned tasks in which they are employed, among other things). Identify the alteration means state an exact description of the alteration, the date the alteration was made, the activity at issue affected by the alteration, and the job titles of mechanics, truck drivers, laborers, and non-exempt workers whose time was affected by the alteration.

ANSWER: Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State facilities.

INTERROGATORY NO. 16: For each work day of the mechanics, truck drivers, laborers and/or non-exempt hourly workers at the facilities, job sites and/or work locations, state the shift time hours credited to individuals working on that shift each day (or the total credited each work week) for the period February 17, 2012 through the present. This interrogatory seeks the daily shift time hours credited to a shift and recorded as the hours worked for each individual on the shift (e.g. 8 hours or the weekly shift time and/or by describing the differential described as "shop time" hours credited to the shift (e.g. 40 hrs.); it does not seek the total man-hours worked by all shift employees during a day or a week (which presumably could be in the hundreds). Please answer this interrogatory for each facility at issue in this action.

ANSWER: None. Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State employees.

INTERROGATORY NO. 17: Identify each and every document in the Defendants' possession or control or of which it has knowledge to embody or otherwise reflect any of the information requested in Interrogatory NO. 16.

ANSWER: None. Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State employees.

INTERROGATORY NO. 18: Describe in detail the Defendants' policies, practices and procedures regarding the payment of overtime and whether it pays equal pay for all employees during each pay period for equal work by all other employees during the period of Plaintiffs' employment including, but not limited to, information regarding:

- a. The job classifications considered to be subject to the overtime requirements and for equal pay requirements of federal and/or state law and any job classification deemed exempt from such requirements, specifying the nature of each such exemption claimed;
- b. How overtime was calculated;
- c. When overtime was paid and the rate at which it was paid;
- d. Any procedures in effect to verify compensable hours worked by Defendants' employees who were paid an hourly wage;
- e. Whether Defendants ever compensated its employees with compensatory time off in lieu of cash payments for overtime hours worked; What criteria, standards or policies are in place to insure equal pay for all hourly employees;
- f. What procedures are in place to insure that defendants provide equal pay to nonexempt hourly employees; and
- g. What criteria, standards or policies are in place that govern the reduction or alteration of paid time during any pay period that justifies or authorizes the reduction or alteration of the number of hours during any pay period for the purpose of calculating paid time, and then identify same.

State the name, current or last known address and telephone number and job title of each and every person who supervised employees at the Defendants' facilities, job site(s) and/or work locations at issue since February 17, 2012 to the present.

ANSWER: Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State employees or supervisors.

INTERROGATORY NO. 19: Describe in detail Defendants' policies, practices and procedures regarding the docking of mechanics, truck drivers, laborers and/or non-exempt hourly workers pay for time taken off for personal reasons, whether by a compensatory time bank or otherwise, during the period of Plaintiffs' employment including, but not limited to, information regarding:

- a. The job classifications considered subject to docking or reducing pay for any reason and identify those reasons.
- b. How time docked or deducted or pay is reduced in any fashion is determined or

calculated.

- c. How time docked or pay reduced or offset is recorded or kept track of.
- d. Any procedures in effect to verify how much compensable time is reduced, docked or offset in any way.
- e. Whether defendants' ever adjusted it employees pay by a time bank or otherwise and describe said procedure.
- f. Whether a non-exempt hourly employee is ever docked for delays, repairs, "shop time" and/or any other reason and explain and identify the method or arriving at said deductions, the justification therefor and the criteria applied to arrive at said calculation.

ANSWER: Defendants Katrina Kincaid, Ricky's Towing and Cantu Towing have no knowledge regarding Defendant Tri-State employees or policies

EXHIBIT “F”

Summary of Unpaid Wages

U.S. Department of Labor
Wage and Hour Division

Office Address: Albuquerque NM District Office US Dept. of Labor, Wage & Hour Div P.O. Box 907 500 Gold SW Suite 12000 Albuquerque, NM 87103 505-248-6100	Investigator: Michael Killough	Date: 08/06/2013
	Employer Fed Tax ID Number: 80-0139309	

1. Name	2. Address	3. Period Covered by Work Week Ending Dates	4. Act(s)	5. BWs Due	Total
1. Arriaga, Victoria	907 Garden Walk La Porte, TX 77571	08/25/2012 to 10/27/2012	FLSA	\$1,341.93	\$1,341.93 <i>60⁰⁰</i>
2. Bates, Tommy	P.O. Box 151 Whitney, NE 69367	12/31/2011 to 10/27/2012	FLSA	\$1,971.09	\$1,971.09
3. Bates, Trey	8530 S. Western, #3 Amarillo, TX 79110	12/24/2011 to 10/27/2012	FLSA	\$484.49	<i>2/10/12</i> \$484.49
4. Bausell, Joel <i>W</i>	3220 Seymour Rd, Apt 36 Wichita Falls, TX 76309	08/04/2012 to 10/27/2012	FLSA	\$515.25	\$515.25
5. Beasley, Robert <i>W</i>	2016 Gloria Ln Wichita Falls, TX 76306	08/25/2012 to 10/27/2012	FLSA	\$1,341.93	\$1,341.93 ✓
6. Brock, Kimberly		06/11/2011 to 09/29/2012	FLSA	\$39.12	\$39.12 ✓
7. Cardenas, Megan		08/11/2012 to 11/03/2012	FLSA	\$128.38	\$128.38 ✓
8. Cardenas, Sandra	902 S. Bonham Amarillo, TX 79102	04/14/2012 to 11/03/2012	FLSA	\$953.09	\$953.09 ✓
9. Cook, Thomas		12/31/2011 to 10/20/2012	FLSA	\$254.58	\$254.58

I agree to pay the listed employees the amount due shown above by 09/20/2013

Signed: _____

Date: _____

Employer Name and Address:
 Cantu Towing
 Cantu Towing LLC
 1403 30th Street
 Wichita Falls TX 76302

Subtotal: \$7,029.86

\$7,029.86

5,707.93

Date: 08/06/2013 7:43:41 AM

Case ID: 1672236

Form WH-56

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Summary of Unpaid Wages

U.S. Department of Labor
Wage and Hour Division

Office Address: Albuquerque NM District Office US Dept. of Labor, Wage & Hour Div P.O. Box 907 500 Gold SW Suite 12000 Albuquerque, NM 87103 505-248-6100	Investigator: Michael Killough	Date: 08/06/2013
	Employer Fed Tax ID Number: 80-0139309	

1. Name	2. Address	3. Period Covered by Work Week Ending Dates	4. Act(s)	5. BWs Due	Total
10. Davila, Edward	1000 Sunrise Amarillo, TX 79104	08/18/2012 to 10/27/2012	FLSA	\$166.95	\$166.95
11. Del Santos, Benancio	1516 E. 7th Amarillo, TX 79102	09/29/2012 to 11/03/2012	FLSA	\$150.04	\$150.04
12. Easley, Justin	1108 Morton Dumas, TX 79029	11/13/2010 to 06/04/2011	FLSA	\$996.73	\$996.73
13. Edgar, Allen	1206 N. Polk Amarillo, TX 79107	11/13/2010 to 10/27/2012	FLSA	\$73.03	\$73.03
14. Englehaupt, Joshua	1007 Melody Ln Amarillo, TX 79108	11/13/2010 to 11/05/2011	FLSA	\$656.41	\$656.41 ✓
15. Fear, Donny	6801 Wolfen Ave #524 Amarillo, TX 79106	10/06/2012 to 11/03/2012	FLSA	\$62.46	\$62.46 ✓
16. Foster, Franklin		12/24/2011 to 05/19/2012	FLSA	\$2,240.29	\$2,240.29 ✓
17. Haskins, Catherine		11/20/2010 to 11/20/2010	FLSA	\$32.00	\$32.00 ✓
18. Hernandez, Julian	4317 S. Ong Amarillo, TX 79110	05/05/2012 to 06/16/2012	FLSA	\$465.72	\$465.72 ✓

I agree to pay the listed employees the amount due shown above by 09/20/2013

Signed: _____

Date: _____

Employer Name and Address:

Cantu Towing
Cantu Towing LLC
1403 30th Street
Wichita Falls TX 76302

Subtotal: \$4,843.63

\$4,843.63

Form WH-56

Date: 08/06/2013 7:43:41 AM

Case ID: 1672236

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Summary of Unpaid Wages

U.S. Department of Labor
Wage and Hour Division

Office Address: Albuquerque NM District Office US Dept. of Labor, Wage & Hour Div P.O. Box 907 500 Gold SW Suite 12000 Albuquerque, NM 87103 505-248-6100			Investigator: Michael Killough		Date: 08/06/2013
			Employer Fed Tax ID Number: 80-0139309		

1. Name	2. Address	3. Period Covered by Work Week Ending Dates	4. Act(s)	5. BWs Due	Total
19. Herrero, Daniel	2200 S. Manhattan Amarillo, TX 79103	12/31/2011 to 03/31/2012	FLSA	\$307.96	\$307.96 ✓
20. Kendall, Ricky	1407 SW 20th (Rear) Amarillo, TX 79109	12/03/2011 to 01/07/2012	FLSA	\$277.73	\$277.73 ✓
21. Lozoya, Jeremiah	1317 SE 14th ST Amarillo, TX 79102	11/13/2010 to 02/25/2012	FLSA	\$1,075.97	\$1,075.97 ✓
22. Martellaro, Michael	3506 S. Taylor Amarillo, TX 79109	07/07/2012 to 09/01/2012	FLSA	\$254.99	\$254.99 ✓
23. Martin, Gary <i>W</i>	4333 Grandview St Wichita Falls, TX 76306	05/05/2012 to 06/02/2012	FLSA	\$62.00	\$62.00 ✓
24. Metzger, Eric <i>W</i>	701 Fillmore Wichita Falls, TX 76301	12/31/2011 to 08/04/2012	FLSA	\$1,314.12	\$1,314.12 ✓
25. Murray, Justen <i>W</i>	4601 Westridge Wichita Falls, TX 76306	04/28/2012 to 05/12/2012	FLSA	\$510.27	\$510.27 ✓
26. Olivarez, Guadalupe	712 N. Lincoln Amarillo, TX 79107	08/13/2011 to 11/03/2012	FLSA	\$35,964.69	<i>12,261.54</i> <i>23,703.13</i> \$35,964.69 23,703.13 ✓
27. Paralez, Juan	1002 N. Virginia Amarillo, TX 79106	12/25/2010 to 09/24/2011	FLSA	\$108.95	\$108.95 ✓

I agree to pay the listed employees the amount due shown above by 09/20/2013 Signed: _____ Date: _____	Employer Name and Address: Cantu Towing Cantu Towing LLC 1403 30th Street Wichita Falls TX 76302	Subtotal: \$39,876.68	\$39,876.68

Summary of Unpaid Wages

U.S. Department of Labor
Wage and Hour Division

Office Address: Albuquerque NM District Office US Dept. of Labor, Wage & Hour Div P.O. Box 907 500 Gold SW Suite 12000 Albuquerque, NM 87103 505-248-6100	Investigator: Michael Killough	Date: 08/06/2013
	Employer Fed Tax ID Number: 80-0139309	

1. Name	2. Address	3. Period Covered by Work Week Ending Dates	4. Act(s)	5. BWs Due	Total
28. Parks, Mackenzie <i>W</i>	153 Peterson Rd Wichita Falls, TX 76305	12/31/2011 to 04/21/2012	FLSA	\$76.80	\$76.80 ✓
29. Quam, Jim	4304 S. Ong Amarillo, TX 79110	12/31/2011 to 03/31/2012	FLSA	\$352.60	\$352.60 ✓
30. Runquist, Robert	12118 LS Trail Amarillo, TX 79118	12/31/2011 to 10/27/2012	FLSA	\$632.26	381.84 250.42 \$632.26 ✓
31. Shirley, Rick <i>W</i>		05/26/2012 to 08/18/2012	FLSA	\$1,269.29	\$1,269.29 ✓
32. Solis, Estabon	1510 Parr St Amarillo, TX 79106	10/01/2011 to 12/24/2011	FLSA	\$668.62	\$668.62 ✓
33. Whittington, Jason	406 S. Highland Amarillo, TX 79104	11/13/2010 to 10/27/2012	FLSA	\$765.27	\$765.27 ✓

I agree to pay the listed employees the amount due shown above by 09/20/2013

Employer Name and Address:
 Cantu Towing
 Cantu Towing LLC
 1403 30th Street
 Wichita Falls TX 76302

Subtotal:	\$3,764.84	\$3,764.84
Total:	\$55,515.01	\$55,515.01

Signed: _____

Date: _____

Form WH-56

Date: 08/06/2013 7:43:41 AM

Case ID: 1672236

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EXHIBIT “G”

SCHEDULE C
(Form 1040)**Profit or Loss From Business**
(Sole Proprietorship)

OMB No. 1545-0074

2011Attachment
Sequence No. **09**Department of the Treasury
Internal Revenue Service (99)▶ For information on Schedule C and its instructions, go to www.irs.gov/schedulec.
▶ Attach to Form 1040, 1040NR, or 1041; partnerships generally must file Form 1065.

Name of proprietor

Social security number (SSN)

KATRINA KINCAID**A** Principal business or profession, including product or service (see instructions)**TOWING SERVICE****B** Enter code from instructions▶ **488000****C** Business name. If no separate business name, leave blank.**CANTU TOWING, LLC****D** Employer ID number (EIN), (see instrs)**80-0139309****E** Business address (including suite or room no.) ▶ **PO BOX 9092**City, town or post office, state, and ZIP code **AMARILLO TX 79105****F** Accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) ▶**G** Did you 'materially participate' in the operation of this business during 2011? If 'No,' see instructions for limit on losses. ☒ Yes ☐ No**H** If you started or acquired this business during 2011, check here ☐**I** Did you make any payments in 2011 that would require you to file Form(s) 1099? (see instructions). ☒ Yes ☐ No**J** If 'Yes,' did you or will you file all required Forms 1099? ☒ Yes ☐ No**Part I** **Income**

1a Merchant card and third party payments. For 2011, enter -0-.....	1a	0.	
b Gross receipts or sales not entered on line 1a (see instructions).....	1b	135,147.	
c Income reported to you on Form W-2 if the 'Statutory Employee' box on that form was checked. Caution. See instructions before completing this line.....	1c		
d Total gross receipts. Add lines 1a through 1c.....	1d	135,147.	
2 Returns and allowances plus any other adjustments (see instructions).....	2		
3 Subtract line 2 from line 1d.....	3	135,147.	
4 Cost of goods sold (from line 42).....	4		
5 Gross profit. Subtract line 4 from line 3.....	5	135,147.	
6 Other income, including federal and state gasoline or fuel tax credit or refund (see instructions).....	6	600.	
7 Gross income. Add lines 5 and 6.....	7	135,747.	

Part II **Expenses. Enter expenses for business use of your home only on line 30.**

8 Advertising.....	8	496.	18 Office expense (see instructions).....	18	305.
9 Car and truck expenses (see instructions).....	9		19 Pension and profit-sharing plans.....	19	
10 Commissions and fees.....	10		20 Rent or lease (see instructions):		
11 Contract labor (see instructions).....	11	8,531.	a Vehicles, machinery, and equipment.....	20a	1,155.
12 Depletion.....	12		b Other business property.....	20b	74,500.
13 Depreciation and section 179 expense deduction (not included in Part III) (see instructions).....	13		21 Repairs and maintenance.....	21	1,638.
14 Employee benefit programs (other than on line 19).....	14		22 Supplies (not included in Part III).....	22	2,103.
15 Insurance (other than health).....	15		23 Taxes and licenses.....	23	216.
16 Interest:			24 Travel, meals, and entertainment:		
a Mortgage (paid to banks, etc).....	16a		a Travel.....	24a	
b Other.....	16b		b Deductible meals and entertainment (see instructions).....	24b	
17 Legal & professional services.....	17		25 Utilities.....	25	144.
28 Total expenses before expenses for business use of home. Add lines 8 through 27a.....	28	135,694.	26 Wages (less employment credits).....	26	33,675.
29 Tentative profit or (loss). Subtract line 28 from line 7.....	29	53.	27a Other expenses (from line 48).....	27a	12,931.
30 Expenses for business use of your home. Attach Form 8829 . Do not report such expenses elsewhere.....	30		b Reserved for future use.....	27b	
31 Net profit or (loss). Subtract line 30 from line 29.					
• If a profit, enter on both Form 1040 , line 12 (or Form 1040NR , line 13) and on Schedule SE , line 2. If you entered an amount on line 1c, see instructions. Estates and trusts, enter on Form 1041 , line 3.				31	53.
• If a loss, you must go to line 32.					
32 If you have a loss, check the box that describes your investment in this activity (see instructions).					
• If you checked 32a, enter the loss on both Form 1040 , line 12, (or Form 1040NR , line 13) and on Schedule SE , line 2. If you entered an amount on line 1c, see the instructions for line 31. Estates and trusts, enter on Form 1041 , line 3.				32a	<input type="checkbox"/> All investment is at risk.
• If you checked 32b, you must attach Form 6198 . Your loss may be limited.				32b	<input type="checkbox"/> Some investment is not at risk.

SCHEDULE C

(Form 1040)

Profit or Loss From Business

(Sole Proprietorship)

OMB No. 1545-0074

2010Attachment
Sequence No. **09**Department of the Treasury
Internal Revenue Service (99)Partnerships, joint ventures, etc., generally must file Form 1065 or 1065-B.
Attach to Form 1040, 1040NR, or 1041. See instructions for Schedule C (Form 1040).

Name of proprietor

RICARDO CANTU

Social security number (SSN)

B Enter code from instructions

488000

A Principal business or profession, including product or service (see instructions)

WRECKER SERVICE

C Business name. If no separate business name, leave blank.

RICKY'S TOWING OF AMARILLO, LLC

D Employer ID number (EIN), if any

80-0139311

E Business address (including suite or room no.)

City, town or post office, state, and ZIP code

F Accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify)G Did you 'materially participate' in the operation of this business during 2010? If 'No,' see instructions for limit on losses. ☒ Yes ☐ No

H If you started or acquired this business during 2010, check here.

Part I Income1 Gross receipts or sales. **Caution.** See instructions and check the box if:

- This income was reported to you on Form W-2 and the 'Statutory employee' box on that form was checked, or
- You are a member of a qualified joint venture reporting only rental real estate income not subject to self-employment tax. Also see instructions for limit on losses.

1 1,829,501.

2 Returns and allowances

2

3 Subtract line 2 from line 1

3 1,829,501.

4 Cost of goods sold (from line 42 on page 2)

4

5 Gross profit. Subtract line 4 from line 3

5 1,829,501.

6 Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)

6 19,237.

7 Gross income. Add lines 5 and 6

7 1,848,738.

Part II Expenses. Enter expenses for business use of your home only on line 30.

8 Advertising 8 32,735.

9 Car and truck expenses (see instructions) 9

10 Commissions and fees 10

11 Contract labor (see instructions) 11 327,334.

12 Depletion 12

13 Depreciation and section 179 expense deduction (not included in Part III) (see instructions) 13 415,913.

14 Employee benefit programs (other than on line 19) 14

15 Insurance (other than health) 15 87,646.

16 Interest:

a Mortgage (paid to banks, etc.) 16a

b Other 16b 27,815.

17 Legal & professional services 17 25,696.

18 Office expense 18 18,516.

19 Pension and profit-sharing plans 19

20 Rent or lease (see instructions):

a Vehicles, machinery, and equipment 20a 7,139.

b Other business property 20b

21 Repairs and maintenance 21 115,430.

22 Supplies (not included in Part III) 22 99,419.

23 Taxes and licenses 23 18,998.

24 Travel, meals, and entertainment:

a Travel 24a 9,214.

b Deductible meals and entertainment (see instructions) 24b 5,028.

25 Utilities 25 19,747.

26 Wages (less employment credits) 26 148,653.

27 Other expenses (from line 48 on page 2) 27 397,714.

28 Total expenses before expenses for business use of home. Add lines 8 through 27. 28 1,756,997.

29 Tentative profit or (loss). Subtract line 28 from line 7. 29 91,741.

30 Expenses for business use of your home. Attach Form 8829. 30

31 Net profit or (loss). Subtract line 30 from line 29.

- If a profit, enter on both Form 1040, line 12, and Schedule SE, line 2, or on Form 1040NR, line 13 (if you checked the box on line 1, see instructions). Estates and trusts, enter on Form 1041, line 3.

- If a loss, you must go to line 32.

31 91,741.

32 If you have a loss, check the box that describes your investment in this activity (see instructions).

- If you checked 32a, enter the loss on both Form 1040, line 12, and Schedule SE, line 2, or on Form 1040NR, line 13 (if you checked the box on line 1, see the line 31 instructions). Estates and trusts, enter on Form 1041, line 3.

32a ☐ All investment is at risk.

- If you checked 32b, you must attach Form 6198. Your loss may be limited.

32b ☐ Some investment is not at risk.

BAA For Paperwork Reduction Act Notice, see your tax return instructions.

Schedule C (Form 1040) 2010

SCHEDULE C
(Form 1040)**Profit or Loss From Business**
(Sole Proprietorship)

OMB No. 1545-0074

2011Attachment
Sequence No. **09**Department of the Treasury
Internal Revenue Service (99)▶ For information on Schedule C and its instructions, go to www.irs.gov/schedulec.
▶ Attach to Form 1040, 1040NR, or 1041; partnerships generally must file Form 1065.

Name of proprietor

Social security number (SSN)

RICARDO CANTU**A** Principal business or profession, including product or service (see instructions)**WRECKER SERVICE****B** Enter code from instructions▶ **488000****C** Business name. If no separate business name, leave blank.**RICKY'S TOWING OF AMARILLO, LLC****D** Employer ID number (EIN), (see Instrs)**80-0139311****E** Business address (including suite or room no.) ▶

City, town or post office, state, and ZIP code

F Accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) ▶**G** Did you 'materially participate' in the operation of this business during 2011? If 'No,' see instructions for limit on losses. ☒ Yes ☐ No**H** If you started or acquired this business during 2011, check here. ☐ Yes ☐ No**I** Did you make any payments in 2011 that would require you to file Form(s) 1099? (see instructions) ☒ Yes ☐ No**J** If 'Yes,' did you or will you file all required Forms 1099? ☒ Yes ☐ No**Part I Income**

1a Merchant card and third party payments. For 2011, enter -0-	1a	0.
b Gross receipts or sales not entered on line 1a (see instructions)	1b	1,750,763.
c Income reported to you on Form W-2 if the 'Statutory Employee' box on that form was checked. Caution. See instructions before completing this line.	1c	
d Total gross receipts. Add lines 1a through 1c	1d	1,750,763.
2 Returns and allowances plus any other adjustments (see instructions)	2	
3 Subtract line 2 from line 1d.	3	1,750,763.
4 Cost of goods sold (from line 42)	4	
5 Gross profit. Subtract line 4 from line 3	5	1,750,763.
6 Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)	6	151,661.
7 Gross income. Add lines 5 and 6	7	1,902,424.

Part II Expenses. Enter expenses for business use of your home only on line 30.

8 Advertising	8	59,083.	18 Office expense (see instructions)	18	30,096.
9 Car and truck expenses (see instructions)	9		19 Pension and profit-sharing plans	19	
10 Commissions and fees	10		20 Rent or lease (see instructions):		
11 Contract labor (see instructions)	11	265,663.	a Vehicles, machinery, and equipment	20a	3,784.
12 Depletion	12		b Other business property	20b	
13 Depreciation and section 179 expense deduction (not included in Part III) (see instructions)	13	348,089.	21 Repairs and maintenance	21	77,332.
14 Employee benefit programs (other than on line 19)	14		22 Supplies (not included in Part III)	22	119,548.
15 Insurance (other than health)	15	101,459.	23 Taxes and licenses	23	39,097.
16 Interest:			24 Travel, meals, and entertainment:		
a Mortgage (paid to banks, etc)	16a		a Travel	24a	12,056.
b Other	16b	46,546.	b Deductible meals and entertainment (see instructions)	24b	3,909.
17 Legal & professional services	17	51,775.	25 Utilities	25	31,913.
28 Total expenses before expenses for business use of home. Add lines 8 through 27a	28		26 Wages (less employment credits)	26	261,975.
29 Tentative profit or (loss). Subtract line 28 from line 7	29		27a Other expenses (from line 48)	27a	468,553.
30 Expenses for business use of your home. Attach Form 8829. Do not report such expenses elsewhere	30		b Reserved for future use	27b	
31 Net profit or (loss). Subtract line 30 from line 29.	31				
<ul style="list-style-type: none"> If a profit, enter on both Form 1040, line 12 (or Form 1040NR, line 13) and on Schedule SE, line 2. If you entered an amount on line 1c, see instructions. Estates and trusts, enter on Form 1041, line 3. If a loss, you must go to line 32. 					-18,454.

32 If you have a loss, check the box that describes your investment in this activity (see instructions).

- If you checked 32a, enter the loss on both Form 1040, line 12, (or Form 1040NR, line 13) and on Schedule SE, line 2. If you entered an amount on line 1c, see the instructions for line 31. Estates and trusts, enter on Form 1041, line 3.

- If you checked 32b, you must attach Form 6198. Your loss may be limited.

32a ☒ All investment is at risk.**32b** ☐ Some investment is not at risk.**BAA** For Paperwork Reduction Act Notice, see your tax return instructions.

FD/20112L 10/25/11

Schedule C (Form 1040) 2011

EXHIBIT “H”

NAME		Kerry Tawater (Corkscrew)		PERIOD		1/7/2015-1/13/2015	
DATE	SHOP TIME	DESCRIPTION	BILLABLE	DESCRIPTION2	BILLABLE	BILLABLE HOURS @	
1/7/2015							
1/8/2015							
1/9/2015	9.5	unload weights, service trucks, clean truck, took #112 to wash & trailer					
1/10/2015	8	Quannah TX to pick up #208					
1/11/2015							
1/12/2015	11.5	Haul Equip. back from Aquila 10, Tandem/Frame tanks					
1/13/2015			8.5	Unload tandem, fix flat on trailer, Crawford Ranch pick up loader.			
TOTAL	29	SHOP HOURS @	8.5	BILLABLE HOURS @			
Misc. &/OR REIMBURSEMENTS:		29 x 10. =	8.5 @ 16. =				
		290	136				

\$290.00 shop
 \$136.00 billable
 \$426.00

\$290 Namay 18 to Garage Door

8.5 x 7.25
 = \$59.81

